

Amendment
Application No. 10/552,152
Attorney Docket No. 053170

REMARKS

Claims 1-9 are pending in this application, of which claim 9 has been added whose support is found at page 3, lines 12-17 of the specification.

(1) Claims 1-8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hosokawa et al. (U.S. Patent No. 6,703,451) in view of Quincy et al. (WO 00/50098 A1). *See* pages 3-4 of the Office Action.

(i) The Examiner states that it would be obvious to one of ordinary skill in the art to modify the compound of Hosokawa et al. such that the compound includes silica gel, which will necessarily function as an antibacterial agent as taught by Quincy et al. Page 3 of the outstanding Office Action. However, there is no motivation or suggestion to choose the Quincy's silica gel into the composition taught by Hosokawa et al. Quincy et al. do not teach that Quincy's silica gel incorporates a metal compound in order to serve as an antibacterial agent. Quincy et al. merely teach that silica gels can be used as a superabsorbent material (page 18, lines 28-30). The silica gel in Quincy et al. is an example of the superabsorbent material. Quincy et al. teach that the superabsorbent materials can be natural, or synthetic polymer, or inorganic materials such as silica gels (page 18, lines 28-30), but does not teach that silica gel can be added in addition to the "natural, synthetic and modified natural polymers and materials." *See* page 18, lines 28-30. Under the teaching by Quincy et al., one skilled in the art could modify Hosokawa's composition

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by replacing Hosokawa's "superabsorbent resin" (col. 2, line 54 of Hosokawa) with the Quincy's silica gel (page 18, line 30 of Quincy). However, the scope of claim 1 is unpredictable from the teaching by the cited references.

(ii) Moreover, it is unpredictable whether the Quincy's silica gel functions as an antibacterial agent in the Hosokawa's composition. Neither Hosokawa et al. nor Quincy et al. teach "incorporating an antibacterial metal into a porous material." It is also unpredictable how to obtain "a silica gel incorporating a titanium and zirconium" even if combining the references. The Examiner's statement that "[Hosokawa's] compound includes silica gel, which will necessarily function as an antibacterial agent as taught by Quincy (page 3 of the outstanding Office Action)" is baseless.

(iii) The water-absorbing resin compound of the present invention can retain an antibacterial property of an antibacterial metal to suppress the emission of unpleasant odor when an organic material exists in a system. In particular, the present invention is directed to using an eluting-type antibacterial agent, as recited in newly added claim 9. *See page 3, lines 12 to 17 of the present specification.*

As described at page 3, line 24 to page 4, line 4, the antibacterial agent has a porous material incorporating an antibacterial metal, which coexist with a metal chelating agent. Thus,

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an eluting type antibacterial metal can immediately form a complex with the metal chelating agent. Therefore, even where an organic material exists in the system, the eluted antibacterial metal does not form salts with the organic material, and therefore, the water-absorbing resin compound can retain an antibacterial property of the antibacterial metal.

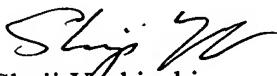
Hosokawa et al. disclose a metal compound such as titanium and zirconium (col. 2, lines 29, lines 55-57), but the metal compound is added in order to improve gel strength, stability, and stickiness after water absorption. *See* col. 2, lines 27 to 31. Hosokawa et al. fail to disclose the metal compound serving as an antibacterial agent. Moreover, the Examiner states that Hosokawa et al. fail to teach a porous material incorporating a metal compound. Page 3 of the outstanding Office Action. Furthermore, Hosokawa et al. fail to teach that the chelating agent retains an antibacterial property of the metal compound. Nor Hosokawa et al. teach that the chelating agent avoids formation of a salt of the metal and organic materials. The object and effect by adding the metal compound in Hosokawa et al. are different from the object and effect in the present invention. Thus, without any hindsight, one skilled in the art is not motivated to modify Hosokawa et al.

(2) In view of the above, Applicants submit that that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date. If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to

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contact Applicants' undersigned representative at the telephone number indicated below to arrange for an interview to expedite the disposition of this case. If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
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Petition for Extension of Time



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